

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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UNITED STATES OF AMERICA

Plaintiff,

v.

THE STATE OF TENNESSEE AND THE  
TENNESSEE BUREAU OF  
INVESTIGATION,

Defendants.

Case No. 2:24-cv-02101

Chief Judge Lipman

Chief Magistrate Judge Pham

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**REPORT OF THE PARTIES' RULE 26(f) PLANNING MEETING**

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1. The following persons participated in the Rule 26(f) conference on March 11, 2024, by telephone: John R. Glover, as counsel for Defendants; and Stephanie Berger and Ali Szemanski, as counsel for Plaintiff.<sup>1</sup>

2. **Initial Disclosures.** The parties will complete exchange of their Rule 26(a)(1)(A) Initial Disclosures by April 26, 2024.

3. **Discovery Plan.** The parties propose this discovery plan, which will cover all discovery for all parties:

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<sup>1</sup> On March 25, 2024, Defendants filed an unopposed motion to consolidate this case with the pending case of *OutMemphis, et. al, v. Lee, et al.*, Docket No. 2:23-cv-02670, and have requested a new scheduling conference in the consolidated case (D.E. 68 in *OutMemphis*; D.E. 15 in *United States*). Defendants submit that the Rule 26(f) report and proposed scheduling order may change if the Court consolidates the cases. Plaintiff United States does not anticipate the need to alter the deadlines proposed in this Rule 26(f) report and proposed scheduling order, as most of the dates are intentionally aligned with the deadlines in the *OUTMemphis* case.

a. Discovery is anticipated on the following topics:

- i. Enforcement of Tennessee's aggravated prostitution and sex offender registration statutes;
- ii. Information on the Tennessee Bureau of Investigation's operation of the sex offender registry and its requirements, including reporting violations to law enforcement entities and other agencies;
- iii. Information on fees including sex offender registry fees, court costs and fines, bonds, any fees paid for supervision or probation, and attorneys' fees paid by individuals convicted of aggravated prostitution and associated registry violations;
- iv. Information on time served in Tennessee correctional facilities by individuals convicted of aggravated prostitution and associated registry violations; and
- v. Expert testimony regarding: HIV/AIDS including history, transmissibility, and treatments; and the utility and public health consequences of HIV criminalization; and
- vi. Standing of Plaintiff to challenge the laws at issue in the complaint, including but not limited to issues of mootness and lack of case or controversy.

b. The parties have agreed that they intend to negotiate a separate protocol for the discovery of electronically stored information ("e-discovery"). The parties will comply with the default standards described in Local Rule 26.1(e) until such time the parties reach an agreement and the court approves their e-discovery plan.

c. The parties have agreed that if privileged or protected information is inadvertently produced, the producing party may, by timely notice, assert the privilege or protection and obtain the return of the materials without waiver.

d. Fact discovery will be commenced in time to be completed by January 15, 2025. Expert discovery will be commenced in time to be completed by June 14, 2025.

e. Plaintiff shall issue no more than 25 interrogatories total to both Defendants absent agreement of the parties or leave of court. Defendants shall issue no more than 25 interrogatories total to Plaintiff.

f. Plaintiff shall not depose more than 10 fact witnesses total absent agreement of the parties or leave of court. Defendants shall not depose more than 10 fact witnesses total absent agreement of the parties or leave of court. For purposes of this limitation, a deposition under Fed. R. Civ. P. 30(b)(6) will count as a single witness. Each deposition will be limited to 7 hours on the record per deposition.

g. Plaintiff's expert disclosures are due March 14, 2025. Defendants' expert disclosures are due April 14, 2025.

**4. Other Items.**

a. The parties' deadline to amend pleadings and join parties is July 2, 2024.

b. The dispositive motion deadline is September 12, 2025.

c. The parties request a trial date no earlier than January 20, 2026.

d. The parties have met and conferred regarding settlement and mediation.

Plaintiff is open to discussing ADR. Defendants assert that this case is not suited for ADR.

Plaintiff challenges the legality of State law, rendering mediation almost certain to be fruitless.

e. The parties have met and conferred, and neither desire to consent to all further proceedings in the case being handled by the magistrate judge in accordance with 28 U.S.C. § 636(c).

DATE: March 27, 2024

Respectfully submitted,

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Section Chief

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing was filed and served via the Court's electronic filing system on this the 27th day of March 2024, upon:

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